IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 1343 of 2005

Between:

M/s. PADMAVATHI AGENCIES, Chirala,
Prakasam District. Rep. by its Proprietor Mr. Daggubati Kishore,
S/o. Daggubati Hari Prasada Rao, aged 43 Years.

..... PETITIONER

AND

1 The Additional Commissioner of Commercial Taxes (Legal), O/o. The

Commissioenr of Commercial Taxes, Excise & Commercial Taxes Building,

M.G. Road, Nampally, Hyderabad.
2 The Appellate Deputy Commissioner of Commercial Taxes, GUNTUR.

Guntur District.
3 The Commercial Tax Officer, Chirala, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction particularly in the nature of Writ of Mandamus declaring the impugned proceedings of the first respondent in the CCT's Ref.No. LV(2)/2059/2004 dated 07-10-2004 dismissing the stay petition filed by the petitioner firm for assessment year 2002-2003 as illegal, arbitrary, improper, unjust and without application of mind as it amounts to collection of tax more than 12% and that too from two dealers in view of the revisions/proceedings issued by the

revisional assessing authorities on the manufacturers levying tax on the alleged rental values @ 12% in terms of entry-21 of the 6th Schedule to the APGST Act and consequently directing the third respondent not to take coercive steps for recovery of the tax in dispute for the above mentioned assessment years, pending disposal of the appeal petition on the file of Appellate Deputy Commissioner of Commercial Taxes, Guntur and grant such other relief or reliefs.

Counsel for the Petitioner : MR.M.V.J.K.KUMAR

Counsel for the Respondents : GP FOR COMMERCIAL TAXES

The Court made the following :

ORDER : (Per Hon'ble Sri Justice M.H.S.Ansari)

Having heard learned Counsel for respective parties, we are inclined to dispose of the instant Writ Petition at the stage of admission with certain appropriate directions.

Petitioner has filed the instant Writ Petition aggrieved by the orders passed by the 1st respondent rejecting the prayer for stay of recovery of disputed tax pending disposal of the appeal before the 2nd respondent herein.

Keeping in view that a statutory right of appeal is conferred upon the dealer aggrieved by the orders of the assessing authority (C.T.O) and one of the conditions prescribed being pre-deposit of 12.5% of the disputed tax, petitioner, it is averred, has complied with the said condition of pre-deposit of tax. Though several contentions have been raised in support of the plea as to prima facie case being in favour of the petitioner, we are of the view that interest of justice would be served if the appeal pending before the 2nd respondent is allowed to be heard and disposed of with a direction upon petitioner to deposit 50% of the disputed tax after giving credit to the amounts already paid by the petitioner.

Accordingly, instant Writ Petition is disposed of with a direction upon the petitioner to deposit 50% of the disputed tax after giving credit to the amounts already paid and if the same is paid within four weeks from date, the appeal pending before the 2nd respondent shall be heard on merits without insisting upon the payment of balance

disputed tax of 50%.

Writ Petition accordingly stands disposed of. No order as to costs.

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M.H.S.ANSARI, J

2nd February, 2005.

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T.CH.SURYA RAO, J

ajr

To

1 The Additional Commissioner of Commercial Taxes (Legal), O/o. The Commissioenr of Commercial Taxes, Excise & Commercial Taxes Building, M.G. Road, Nampally, Hyderabad.

2 The Appellate Deputy Commissioner of Commercial Taxes, GUNTUR. Guntur District.

3 The Commercial Tax Officer, Chirala, Prakasam District.

4 Two C.Cs. to GP for Commercial Taxes, High Court of A.P., Hyderabad (O.U.T).

5 Two C.D. copies.s